

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

RONALD TARINO DYSON,

Petitioner,

Case No. 1:15-cv-535

v.

HON. JANET T. NEFF

SHERRY BURT,

Respondent.

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**OPINION AND ORDER**

This is a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R) recommending that this Court deny the petition as time-barred under 28 U.S.C. § 2244(d) (R&R, Dkt 8 at PageID.81). The matter is presently before the Court on Petitioner's objections to the Report and Recommendation (Dkt 9). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order. The Court will also issue a Judgment in this § 2254 proceeding. *See Gillis v. United States*, 729 F.3d 641, 643 (6th Cir. 2013) (requiring a separate judgment in habeas proceedings).

Petitioner was convicted by a jury of first-degree premeditated murder (R&R, Dkt 8 at PageID.82). On December 12, 1994, the trial court sentenced Petitioner to life imprisonment without parole (*id.*). Petitioner appealed his conviction to the Michigan Court of Appeals and the Michigan Supreme Court (*id.* at PageID.85). The Michigan Supreme Court denied Petitioner's

application for leave to appeal on April 2, 1998 (*id.*). On May 18, 2015, Petitioner filed the instant petition, which the Magistrate Judge found time-barred.

Petitioner objects to the Magistrate Judge's conclusion that Petitioner is not entitled to tolling of the one-year statute of limitations. Petitioner asserts that the limitations period should be tolled where he (1) was convicted before the enactment of the Antiterrorism and Effective Death Penalty Act (AEDPA); (2) "is bringing forth numerous Constitutional claims," including a "colorable Actual Innocence Claim"; and (3) "can show a state impediment which delayed accrual of his claims" (Pet'r Obj., Dkt 9 at PageID.94). However, Petitioner's objections essentially reiterate the same arguments he presented in his petition, which the Magistrate Judge carefully and thoroughly considered. Petitioner's objections fail to demonstrate any factual or legal error in the Magistrate Judge's analysis.

Having determined Petitioner's objections lack merit, the Court must further determine pursuant to 28 U.S.C. § 2253(c) whether to grant a certificate of appealability (COA) as to the issues raised. *See* RULES GOVERNING § 2254 CASES, Rule 11 (requiring the district court to "issue or deny a certificate of appealability when it enters a final order"). The Court must review the issues individually. *Slack v. McDaniel*, 529 U.S. 473 (2000); *Murphy v. Ohio*, 263 F.3d 466, 466-67 (6th Cir. 2001).

"When the district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. *Slack*, 529 U.S. at 484. Where a plain procedural bar is present

and the district court is correct to invoke it to dispose of the case, a reasonable jurist could not conclude either that the district court erred in dismissing the petition or that the petitioner should be allowed to proceed further.” *Id.* Upon review, this Court finds that reasonable jurists would not find the Court’s procedural ruling debatable as to each issue asserted. A certificate of appealability will therefore be denied. Accordingly:

**IT IS HEREBY ORDERED** that the Objections (Dkt 9) are DENIED and the Report and Recommendation of the Magistrate Judge (Dkt 8) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the petition for habeas corpus relief (Dkt 1) is DENIED for the reasons stated in the Report and Recommendation.

**IT IS FURTHER ORDERED** that a certificate of appealability pursuant to 28 U.S.C. § 2253(c) is DENIED as to each issue asserted.

Dated: April 20, 2016

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge